

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

JANIER CASTILLO,  
Defendant.USDCSDNY  
**DOCUMENT**  
**ELECTRONICALLY FILED**  
**DOC #:** \_\_\_\_\_  
**DATE FILED:** 3/11/20*CONSENT - vww*  
~~AMENDED PRELIMINARY~~  
ORDER OF FORFEITURE/  
MONEY JUDGMENT

S17 13 Cr. 147 (KMW)

WHEREAS, on or about July 8, 2014, JANIER CASTILLO (the "Defendant") was charged in a four-count Superseding Indictment, S17 13 Cr. 147 (KMW) (the "Indictment"), with conspiracy to steal government funds, in violation of Title 18, United States Code, Section 371 (Count One); theft of government funds, in violation of Title 18, United States Code, Sections 641 and 2 (Count Two); identity theft conspiracy, in violation of Title 18, United States Code, Section 1028(f) (Count Three); and aggravated identity theft, in violation of Title 18, United States Code, Sections 1028A(a)(1), (c)(1) and 2 (Count Four);

WHEREAS, the Indictment included forfeiture allegations as to Counts One and Two, seeking forfeiture to the United States, pursuant to Title 18, United States Code, 981(a)(1)(C) and Title 28, United States Code, Section 2461, of any property real or personal, which constitutes or is derived from proceeds traceable to the offenses charged in Counts One and Two of the Indictment;

WHEREAS, on or about July 8, 2016, the Defendant pled guilty to Count Two of the Indictment and admitted the forfeiture allegation with respect to Count Two of the Indictment and agreed to forfeit a sum of money equal to \$382,340 in United States currency, representing the amount of proceeds traceable to the offense charged in Count Two of the Indictment;

WHEREAS, on or about January 30, 2017, the Court entered a Consent Preliminary Order of Forfeiture/Money Judgment (D.E. 532), ordering the Defendant to a money judgement in the amount of \$382,340 in United States currency, representing the amount of proceeds traceable to the offense charged in Count Two of the Indictment;

WHEREAS, on or about February 2, 2017 the Defendant filed a notice of appeal with the United States Court of Appeals for the Second Circuit, *United States v. Janier Castillo*, 17-716, appealing, *inter alia*, the forfeiture money judgment;

WHEREAS, on or about July 23, 2019, the Second Circuit remanded the matter to this Court to determine the appropriate forfeiture money judgment amount consistent with the holding in *Honeycutt v. United States*, 137 S. Ct. 1626 (2017);

WHEREAS, the ~~Government~~ asserts that \$65,277.33 in United States currency, represents the amount of proceeds traceable to the offense charged in Count Two of the Indictment that the Defendant personally obtained;

WHEREAS, the Government seeks a money judgment in the amount of \$65,277.53 in United States currency representing the amount of proceeds traceable to the offense charged in Count Two of the Indictment that the Defendant personally obtained; and

WHEREAS, the Court finds that as a result of acts and/or omissions of the defendant, the proceeds traceable to the offense charged in Count Two of the Indictment that the defendant personally obtained cannot be located upon the exercise of due diligence;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. As a result of the offense charged in Count Two of the Indictment, to which the Defendant pled guilty, a money judgment in the amount of \$65,277.33 in United States

currency (the “Money Judgment”), representing the amount of proceeds traceable to the offense charged in Count Two of the Indictment, shall be entered against the Defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Amended Preliminary Order of Forfeiture/Money Judgment is final as to the Defendant, JANIER CASTILLO, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding Money Judgment shall be made by postal money order, bank or certified check, made payable to the “United States Department of Treasury” and delivered by mail to the United States Attorney’s Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew’s Plaza, New York, New York 10007 and shall indicate the Defendant’s name and case number.

4. The United States Department of Treasury or its designee is authorized to deposit the payments on the Money Judgment in the Treasury Asset Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, upon entry of this Amended Preliminary Order of Forfeiture/Money Judgment, the United States Attorney’s Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. This Court shall retain jurisdiction to enforce this Amended Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2(e) of the Federal Rules of Criminal Procedure.

8. The Clerk of the Court shall forward three certified copies of this Amended Preliminary Order of Forfeiture/Money Judgment to Assistant United States Attorney Alexander J. Wilson, Co-Chief, Money Laundering and Transnational Criminal Enterprises Unit, United States Attorney's Office, One Saint Andrews Plaza, New York, New York 10007.

Dated: New York, New York

3-11, 20<sup>20</sup>

SO ORDERED:

*Kimba M. Wood*

HONORABLE KIMBA M. WOOD  
UNITED STATES DISTRICT JUDGE